FATA’s fate in Pakistan

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Adeel Hussain Di 3 Jul 2018 Di 3 Jul 2018

On May 25th 2018, Pakistan’s senate passed a constitutional amendment that merges the Federally Administered Tribal Areas (FATA) – a patch of mountainous land snaking along parts of the Afghan border – with Khyber Pakhtun Khwa, a province that sandwiches it. This means that for the first time the constitution’s jurisdiction stretches all the way to the frontier region.

In popular culture FATA mostly pops up as a lawless abode where thugs and criminals hide to avoid detention. An early 2006 VICE documentary on FATA’s infamous gun markets featured a native tribesman, who, confirming all prevailing stereotypes, summed up the region’s creed in the following way: “People of this area believe in two things: many sons and a lot of gun”.

Securing life and property has never been easy in FATA. In the 19th and 20th century the British floundered to squeeze out taxes or run functioning government agencies, let alone secure the porous border with Afghanistan. The problem was, a colonial administrator

mourned in 1931, that the region was packed with "well armed savage tribes, who for millenniums have been absolutely free, enjoying complete self-rule, paying homage and taxes to no one".

Another British commissioner interpreted the difficulty to govern the tribes as a cocktail of geographical and socio-cultural factors: "the population on either side of the boundary line [Afghanistan and British India] are as closely interwoven and intermingled socially, commercially and in all matters of everyday life, that the Frontier is in reality only an arbitrary line drawn through the limits of a more or less homogenous population." Lord Curzon, the cranky Viceroy of India, concluded in characteristic brevity that FATA effectively laid bare "the difference of hill politics from plain politics". Then and now, attempts to police the border fell flat. The tribal population freely moved in and out, as if it was deliberately marooning the colonial and nation state's border-fetish.

The tribes guarded their autonomy jealously. This included commitments to odd cultural practices. In 1936 they refused to release an abducted Hindu girl and married her off to one of the tribesmen. When the colonial courts reluctantly intervened, the tribal leaders claimed she had since converted to Islam and could not be returned. They also doubted if this issue fell under British jurisdiction, since they were administered through the Frontier Criminal Regulation.

The Frontier Criminal Regulation (FCR), introduced as part of the Great Game in the late nineteenth century , hollowed out the constitutional rights of tribesmen and provided more leeway to trigger-happy British soldiers. The Act further flushed out the tribal population's right to "appeal, wakeel [representation], and daleel [present reasoned arguments in court]". Collective punishments were also generously sprinkled in for good measure. If a body was found in a village, as section 23 stipulates, the "members of the village community…shall be deemed to have committed the offence". In return the tribes enjoyed a semi-autonomous status and were largely left alone.

When the British amplified the pressure to release the Hindu girl, Mirzali Khan Wazir, a charismatic tribesman popularly known as the *Faqir* of Ipi, declared jihad. In a 1937 article the German journalist Habibur Rahman gushed about the *Faqir's* physical strength in the British life-style journal *The Living Age*. If rumours were to be trusted, the *Faqir* killed "two bears in a single encounter with his two bare hands". He also held an impeccable record of winning "wrestling matches". Rahman suspected that constitutional issues around the FCR lay at the heart of the *Faqir's* grievance against the British. These constitutional troubles had eventually led him to abandon his "profession of a porter [in early years the *Faqir* carried suitcases at Peshawar's train station] and become a Moslem apostle in Waziristan." The British government, Rahman's accusation went had hoodwinked the tribes of their right to complete self-government, "under the pretext of national security".

The *Faqir* had seen through the British plot to "gain a hold on the valley by building 'peaceful' roads, schools and airports". To counteract colonial infrastructure projects and educational measures, the *Faqir* declared the "Republic of the Frontier Tribes"– with no schools, no airports, and very few roads. Travelling on roads, the *Faqir* sneered, was

turning tribesmen “effeminate”. The British brutally quashed his resistance with 33,000 Indian troops, “well equipped”, according to a local newspaper, “with tanks and planes”. It is a miracle the *Faqir* survived unharmed and died of natural causes in 1960.

In every Islamist country, they say, there is nascent democracy trying to get out. In the case of Pakistan, it seems, there is an even more Islamist one trying to get in. When Muhammad Ali Jinnah founded a broadly secular Pakistan in 1947, the *Faqir* was reluctant to join the country. Jinnah’s assurances that “Pakistan had no desire to unduly interfere with your [the tribes] internal freedom”, could not convince him. The *Faqir’s* stance considerably softened only when Jinnah ordered the military to withdraw from the cantonments bordering FATA and promised to keep infrastructure projects in the region to a minimum. Up until recently, Pakistan’s adjudication in FATA was channelled through quasi-sovereign political agents working in close consultation with local *jirgas*. Rulings were implemented by the tribes themselves and based on a mix of *riwaj* (customary law) and sharia law.

9/11 changed all of that. International demands to sniff out Taliban militants hiding in the rocky borderland pushed Pakistan’s military to increase its presence in FATA. To see men in uniforms patrolling was a *novum* for many villagers. This heightened military presence necessitated changes in the legal make-up, too. FCR could only work in a reclusive state. With heavily armed military personnel stomping around FATA, some villagers feel a lot safer with constitutional rights on their side. Other tribesmen regard it as a step in the wrong direction, however. They dream of the good old days when a man could just ride into the sunset – unburdened by borders, plastered roads, or constitutional rights.

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